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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/692,906	10/25/2003	Nick E. Ciavarella	GOJ 03032	8696

26360 7590 04/12/2007
RENNER, KENNER, GREIVE, BOBAK, TAYLOR & WEBER
FIRST NATIONAL TOWER FOURTH FLOOR
106 S. MAIN STREET
AKRON, OH 44308

EXAMINER

NGO, LIEN M

ART UNIT	PAPER NUMBER
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3754

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	04/12/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/692,906

Applicant(s)

CIAVARELLA ET AL.

Examiner

LIEN TM NGO

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 January 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 12 and 13 is/are allowed.
- 6) ☒ Claim(s) 1-10 and 14-17 is/are rejected.
- 7) ☒ Claim(s) 11 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____.

DETAILED ACTION

Claim Objections

1. Claim 5 is objected to because of the following informalities: in claim 5, line 5, "a portion" should be -- the portion --. Appropriate correction is required.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1, 3, 8 and 14 are rejected under 35 U.S.C. 102(b) as being anticipated by Ophardt et al. (5,638,989). Ophardt discloses, in figs. 17 and 19, an universal collar key 130 for a container 16 that is inserted within a housing of a soap dispenser 10 that has a keyplate 176 therein, the universal collar key comprising: a collar adapted to be supported on the container having a first flange and a second flange 172 extending radially therefrom; said flanges being axially spaced from each other to define a clearance 174 or receiving the keyplate therebetween upon insertion of the container; and a hold 200.

4. Claims 1, 3 and 14 are rejected under 35 U.S.C. 102(b) as being anticipated by Tucker et al. (4,974,753). Tucker discloses, in figs. 1-3, an universal collar key 12 for a container 10 that is inserted within a housing of a soap dispenser 70, 50 that has a keyplate 54 therein, the universal collar key comprising: a collar adapted to be

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supported on the container having a first flange 30 and a second flange 40 extending radially therefrom; said flanges being axially spaced from each other to define a clearance 28 or receiving the keyplate therebetween upon insertion of the container.

5. Claims 1-10 and 14-17 are rejected under 35 U.S.C. 102(b) as being anticipated by Devlin et al. (5,810,204).

In regard to claims 1-10 and 16, Devlin discloses, see in figs. 2-4 and the attachment labeled by examiner), an universal collar key 22 for a container 30 that is inserted within a housing of a soap dispenser 10 that has a keyplate therein, the universal collar key comprising: a collar adapted to be supported on the container (when the collar is carried on the top of the container separately from the dispenser) having a first flange and a second flange 172 extending radially therefrom; said flanges being axially spaced from each other to define a clearance 174 or receiving the keyplate therebetween upon insertion of the container; one of said flanges defining a notch at the forward end; edges 96 or a pair of vertically extending tabs or holds which are engageable with the housing to limit movement of the collar; a bore 92 formed in the collar for receiving a portion 88 (or a projecting portion) of the container; and an attachment assembly 90 located about the bore including an attachment member having a sloped surface for engagement with the portion of the container;

In regard to claims 14, 15 and 17, Devlin further discloses, a locating tab (see the attachment in fig. 3) located in a receiver of the housing and wherein a corresponding of the flanges defines a notch for receiving the locating tab; and a notch 36 or (38 in fig. 5) in the collar adapted to orient the collar relative to the container.

Response to Amendment

6. The declaration of Nick Ciavarella under 37 CFR 1.132 filed 1/16/07 is sufficient to overcome the rejection of claims 1-5 and 8-11 under 35 U.S.C. 102 (e) as being anticipated by Ciavarella et al. (D 480,639).

Allowable Subject Matter

7. Claims 12 and 13 allowed.

8. Claim 11 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

9. Claims 14 and 15 are withdrawn from the allowable subject matter by the alleged rejections above.

Response to Arguments

10. Applicant's arguments with respect to claims 1-10 and 14-17 have been considered but are moot in view of the new ground(s) of rejection.

In response to applicant's argument that Devlin does not disclose a collar as claimed because structure 22 is an adapter and not adapted to be supported on a container, it has been held that the recitation the an element is "adapted to" perform a function is not a positive limitation but only requires the ability to so perform. It does not constitute a limitation in any patentable sense. In re Hutchison, 69 USPQ 138. The adapter 22 is considered as a collar as claimed because it comprises structural limitations as claimed as alleged in the rejections above.

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11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to LIEN TM NGO whose telephone number is 571-272-4545. The examiner can normally be reached on Monday through Friday from 8:30 AM -6:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, KEVIN SHAVER can be reached on 571-272-4720. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

LIEN TM NGO
Primary Examiner
Art Unit 3754

April 10, 2007



FIG. 2

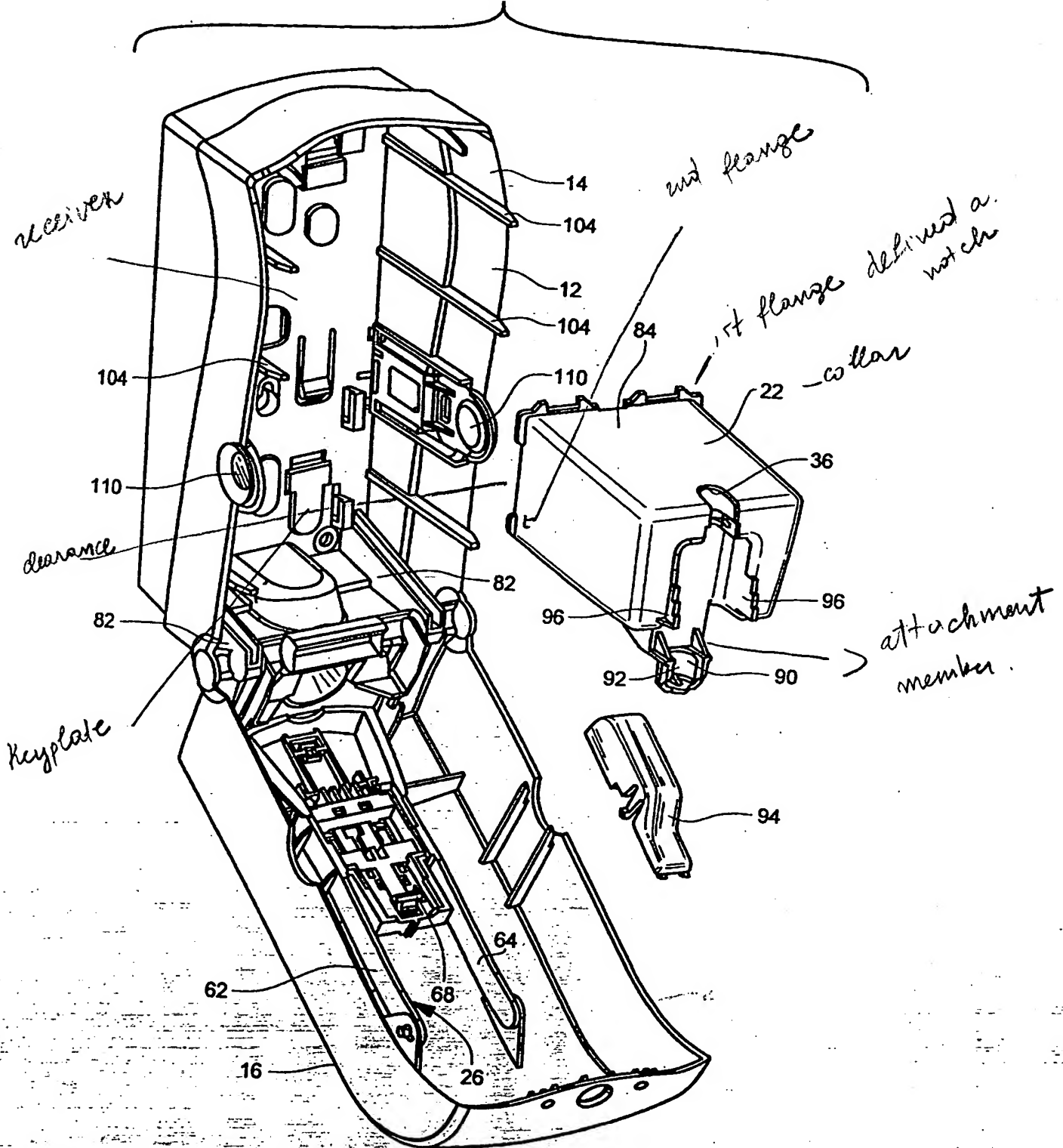


FIG. 3

